

- (3) The nature and circumstances of the violation;
- (4) The extent of the violation; and
- (5) Any other pertinent information.

**§ 1446.703 Assessment of penalties against handlers.**

(a) *Penalty liability.* A handler shall be subject to the penalty for a violation of any provision of this part including, but not limited to, any or all of the following violations:

- (1) Failure to register as a handler of peanuts;
- (2) Failure to examine and make entries on marketing card;
- (3) Failure to keep or make available records as required by this part;
- (4) Marketing excess quota peanuts, as set forth in this part, including any marketing of reentered contract additional peanuts or peanut products made from contract additional peanuts or any marketing of imported peanut products made from additional peanuts purchased from the inventory of CCC loan collateral peanuts;
- (5) Failure to store and account for contract additional peanuts in accordance with the requirements of this part;
- (6) Failure to export or dispose of contract additional peanuts in accordance with the requirements of this part or failure to export or crush such peanuts by the final disposition date as established in this part;
- (7) Failure to obtain supervision of, or to handle properly, contract additional peanuts in the manner required by this part;
- (8) Reentering or importing contract additional peanuts or products made from such peanuts as prohibited by this part; or
- (9) Failure to comply with any other provision of this part.

(b) *Amount of penalty.* Except when reduced in accordance with this part, the penalty amount for any violation of this part shall be equal to 140 percent of the national average quota support rate for the applicable crop year times the quantity of peanuts:

- (1) Handled by an unregistered handler;
- (2) Not properly entered on the marketing card;

(3) For which records have not been properly kept or made available;

(4) Marketed as excess quota peanuts;

(5) Not properly stored;

(6) Not properly disposed of;

(7) Not properly supervised or handled in accordance with the regulations of this part;

(8) Imported as contract additional peanuts;

(9) Determined by CCC to have been necessary to produce the quantity of peanut products which have been determined to have been made from contract additional peanuts, and imported and sold in the United States; or

(10) Otherwise involved in such other violation of this part as may occur.

(c) *Notice of assessment.* A handler shall be notified in writing of the assessment of a penalty by a CCC contracting officer. Such notice shall state the basis for the assessment of the penalty, and shall advise the handler of the handler's appeal rights under this part.

(d) *Interest liability.* The person liable for payment or collection of any penalty provided for in these regulations shall be liable also for interest thereon at a rate per annum equal to the rate of interest which was charged CCC by the Treasury of the United States on the date such penalty became due. The date on which the penalty became due shall be the date on which the penalty was first assessed.

(e) *Applicability.* The provisions of this section are in addition to other remedies provided for by this part or other provisions of law.

[56 FR 16230, Apr. 19, 1991, as amended at 56 FR 38331, Aug. 13, 1991; 57 FR 27145, June 18, 1992]

**§ 1446.704 Reductions of penalties.**

(a) *Request for reconsideration.* A handler who is dissatisfied with a penalty that has been assessed against such handler by the CCC Contracting Officer pursuant to this part may file a written request for reconsideration or reduction of the penalty that has been assessed. Such request must be made within 15 days after the date of the notice of assessment.

(b) *Reduction of penalties.*

(1) *By CCC Contracting Officer.* To the extent permitted by the provisions of

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paragraph (d) of this section, the CCC Contracting Officer may reduce the amount of penalty that is otherwise determined or assessed in accordance with this part. Such reduction may be made before the penalty is assessed or may be made during the course of an appeal.

(2) *By the Executive Vice President, CCC.* To the extent permitted by the provisions of paragraph (d) of this section, the Executive Vice President, CCC, or the Executive Vice President's designee, may reduce the amount of penalty that has been assessed in accordance with this part.

(c) *Reduction criteria.* A penalty that is determined or assessed in accordance with this part may be reduced by the CCC Contracting Officer or the Executive Vice President, CCC, or the Executive Vice President's designee, if such person determines that:

(1) The violation for which the penalty was assessed was minor or inadvertent;

(2) A reduction in the amount of the penalty would not impair the effective operation of the peanut program; and

(3) The assessment of penalty was not made for failure to export contract additional peanuts.

(d) *Reduction limits.*

(1) If the reduction criteria in paragraph (c) of this section has been met, the CCC Contracting Officer or the Executive Vice President, CCC, or the Executive Vice President's designee, as applicable, may reduce the penalty by such amount as such person considers appropriate (including a full reduction of the entire penalty) after taking into account the severity of the violation and the violation history of the handler.

(2) If one of the criteria in paragraphs (c) (1) and (2) of this section has not been satisfied and the remaining criteria has been satisfied, the penalty shall not be reduced to less than an amount which is equal to 40 percent of the national average quota support rate for the applicable crop year times the quantity of peanuts involved in the violation.

(3) There shall not be a limit on the amount by which an assessment of liquidated damages may be reduced by the CCC Contracting Officer or the Ex-

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ecutive Vice President, CCC, or the Executive Vice President's designee.

[65 FR 64595, Oct. 30, 2000]

### § 1446.705 Appeals.

A handler may obtain reconsideration and review of any adverse determination made under this part in accordance with the appeal regulations found at 7 CFR parts 11 and 780 of this title.

[65 FR 64596, Oct. 30, 2000]

### § 1446.706 Statutory liens against peanuts.

(a) *Lien on peanuts.* Until the amount of any penalty which is imposed upon a handler or other person in accordance with this part is paid, a lien shall exist in favor of the United States for the amount of the penalty. Such lien shall apply on the peanuts with respect to which such penalty is incurred and on any other peanuts purchased or otherwise acquired in the same or subsequent marketing year in which the person liable for payment of such penalty has an interest.

(b) *Debt record.* The lien specified in paragraph (a) of this section shall be considered to attach at the time the penalty is entered on the debt records which shall be maintained for this purpose by the marketing associations, unless an earlier time is prescribed by law.

(c) *List of peanut marketing penalty debts.* Each marketing association shall maintain a debt record for all handlers indicating the amounts due from each handler. This list will be available for examination upon written request to the marketing association by any interested party.

[56 FR 16230, Apr. 19, 1991. Redesignated at 65 FR 64596, Oct. 30, 2000]

### § 1446.707 Schemes and devices.

If CCC or the marketing association, with approval of the CCC, determines that a handler has knowingly adopted any scheme or device which tends to defeat the purpose of the regulations of this part or has made any fraudulent representation, or has misrepresented any fact affecting a program determination, such handler will be subject to a penalty which shall be assessed in